



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/290,006	04/11/1999	WILLIAM PAUL WANKER	001	9354

7590 04/24/2002

SEAN M FITZGERALD  
1404 EL CAMINO REAL  
BURLINGAME, CA 94010

EXAMINER
----------

NGUYEN, TAM V

ART UNIT	PAPER NUMBER
----------	--------------

2172

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/290,006

Applicant(s)

WANKER, WILLIAM PAUL

Examiner

Tam V Nguyen

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Cupps et al. (US 5991739).

Re claims 1, 10, and 14, further discloses means for receiving a search query for a product, (Col. 6, lines 19-30); means for retrieving from a database information on merchants offering to sell the product specified in the search query, (Col. 8, lines 56-Col. 9, lines 7); means for retrieving from a database comparison information relating to

Art Unit: 2172

the specified product and the merchants offering the specified product, (Col. 8, lines 56-Col. 9, lines 7); means for applying screening factors to the retrieved merchant and product information to remove those merchants from the ranking with correspond to the screening criteria [in order for the server to return the best results, the server has to calculate by using some type of criteria or weight factors] , (Col. 7, lines 65-Col. 8, lines 16); means for calculating a merchant aggregate value form the application of the weighting factors [in order for the server to return the best results, the server has to calculate by using some type of criteria or weight factors], (Col. 7, lines 65-Col. 8, lines 16); means for generating a ranking the merchants based on the merchant aggregate value, (Col. 7, lines 65-Col. 8, lines 16); and means for providing the ranking to a consumer, (Col. 7, lines 65-Col. 8, lines 16).

Re claim 2, requesting information from a consumer relating to a potential consumer purchase, (Col. 6, lines 19-30).

Re claim 3, providing the ranking tot he consumer in response to the consumer's response to the request for information relating to a potential consumer purchase, (Col. 7, lines 65-Col. 8, lines 16).

Re claim 4, below a specified threshold excluding a merchant from the ranking when the merchant receives aggregate scores, (Col.7, lines 65-Col. 8, lines 16).

Art Unit: 2172

Re claim 5, requesting weighting factor information from a consumer, (Col. 7, lines 65-Col. 8, lines 16); and using the consumer entered weighting factor information in the calculation of the merchant data weight result, (Col. 7, lines 65-Col. 8, lines 16).

Re claim 6, wherein the weighting factors sum to predetermined values, (Col. 7, lines 22-Col. 8, lines 16).

Re claim 7, wherein weighting factors are balanced such that the weighting factors sum to a predetermined values, (Col. 7, lines 27-Col. 8, lines 16).

Re claim 8, providing a rating based on the relative difference in merchant aggregate scores, (Col. 7, lines 65-Col. 8, lines 16).

Re claim 9, providing a ranking to a consumer in response to the consumer's entering a product query, (Col. 7, lines 27-Col. 8, lines 16).

Re claim 11, means for presenting the weighting factors to the consumer, (Col. 7, lines 65-Col. 8, lines 55); means for providing the consumer with the ability to specify weights associated with items of merchant and product information, (Col. 7, lines 65-Col. 8, lines 55); and means for using the weights in generating the ranking of merchants, (Col. 7, lines 65-Col. 8, lines 55).

Art Unit: 2172

Re claim 12, means for calculating a rating of the merchant's offerings of the specified product, (Col. 7, lines 65-Col. 8, lines 55); and means for displaying the rating of the merchant's offering, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 13, wherein the rating is based on the relative difference between the aggregate score of different merchants, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 15, the method of claim 4, wherein the weighting factors are chosen by the user from a preset grouping of weighting factors, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 16, the method of claim 14, wherein the weighting factors received from the user, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 17, the method of claim 14, wherein the merchant information includes information relating to the status of the user specified information in the inventory of the merchant, and wherein merchants with the user specified product in inventory are given a higher ranking according to the weight factor, ((Col. 7, lines 65-Col. 8, lines 55).

Re claim 18, the method of claim 14, wherein the merchant information includes information relating to applicable shipping charges, further comprising the step of calculating the applicable shipping charge, wherein merchants with lower applicable

Art Unit: 2172

shipping charges are given a higher ranking according to the weighting factors, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 19, the method of claim 14, further comprising the steps of receiving information relating to the destination the user specified product would be shipped to, wherein the merchant information includes information relating to the applicable sales tax, (Col. 7, lines 65-Col. 8, lines 55); calculating the applicable sales tax, (Col. 7, lines 65-Col. 8, lines 55); wherein merchants with lower applicable sales tax are given a higher ranking according to the weighting factor, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 20, the method of claim 14, further comprising the step of eliminating those merchants from the ranking where the merchant specific information is incomplete for that merchant, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 21, the method of claim 20, wherein the elimination occurs only for merchants whose merchant data is incomplete as compared to a predefined screening criteria, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 22, the method of claim 21, wherein the predefined screening criteria is received from the user, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 23, the method of claim 14, further comprising the step of excluding from the ranking comparison information items not common to all merchants in the ranking, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 24, the method of claim 14, further comprising the step of: multiplying comparison information of the merchant specific information by a weighting factor to get a weighted comparison value, (Col. 7, lines 65-Col. 8, lines 55); summing the weighted data values to get an aggregate score for the merchant corresponding to the merchant specific information, (Col. 7, lines 65-Col. 8, lines 55); for each merchant in the ranking repeating the steps of multiplying to get a weighted comparison value and the step of summing to get an aggregate value to get an aggregate values, (Col. 7, lines 65-Col. 8, lines 55); and ranking the merchants based on the aggregate values corresponding to each merchant, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 25, the method of claim 24, wherein the weighting factors are received from the user, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 26, the method of claim 24, wherein at least two different weighting factors are used, a first weighting factor applied to at least one item of comparison information from the merchant specific information, and a second weighting factor applied to at least one item of comparison form the merchant specific information, the



first and second weighting factors being applied to different items of comparison information of the merchant specific information, (Col. 7, lines 65-Col. 8, lines 55).

Re claim 27, the method of claim 14, further comprising the step of: presenting the user with a list of merchant information categories, (Col. 9, lines 35-Col. 10, lines 63); receiving user selected merchant information categories, (Col. 9, lines 35-Col. 10, lines 63); and ranking merchants based upon the selected information categories, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 28, the method of claim 24, further comprising the step of: presenting the user with a list of merchant information categories, (Col. 9, lines 35-Col. 10, lines 63); receiving user selected merchant information categories, (Col. 9, lines 35-Col. 10, lines 63); and ranking merchants based upon the selected information categories, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 29, the method of claim 14, wherein the merchant specific information includes payment options available for the corresponding merchant, and wherein merchants with a user specified preferred payment option are given higher ranking according to the weight factors, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 30, the method of claim 30, further comprising the steps of: receiving category weighting factors from the user, wherein category weighting factors are applied

to all comparison information corresponding to the category in the merchant specific information, (Col. 9, lines 35-Col. 10, lines 63); and ranking merchants according to the received category weighting factors, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 31, the method of claim 14, wherein the merchant specific information includes security information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the security information, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 32 the method of claim 14, wherein the merchant specific information includes social responsibility information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the social responsibility information, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 33, the method of claim 14, wherein the merchant specific information includes financial information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the financial information, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 34, the method of claim 14, wherein the merchant specific information includes time in business information for the corresponding merchant, and wherein

Art Unit: 2172

merchants are ranked according to the weighting factors applied to the time in business information, (Col. 9, lines 35-Col. 10, lines 63).

Re claim 35, the method of claim 14, wherein the merchant specific information includes consumer complaint information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the consumer complaint information, (Col. 9, lines 35-Col. 10, lines 63).

### ***Conclusion***

5. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703)-746-7239 (**formal** communications intended for entry),

Or:

(703)-746-7240 (**informal** communications labeled **PROPOSED** or **DRAFT**).

Hand-delivered responses should be brought to:

Sixth Floor Receptionist, Crystal Park II, 2121 Crystal Drive, Arlington, VA.


Art Unit: 2172

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen, whose telephone number is (703)-305-3735 and can normally be reached Monday-Friday from 7:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu, can be reached at (703)-305-4393.

7. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703)-305-3900.

TV:tv

  
JEAN M. CORRIEUS  
PRIMARY EXAMINER

04/18/02